

No. 10757

IN THE

United States Circuit Court of Appeals¹⁴

FOR THE NINTH CIRCUIT

WM. L. GLADSTONE and H. H. HARRISON, Trustees for Psychic Spiritual Science Church, a trust estate,

Appellants,

vs.

MARY GALTON and RAY L. CHESEBRO, City Attorney for the City of Los Angeles, State of California,

Appellees.

WM. L. GLADSTONE and H. H. HARRISON, Trustees for Psychic Spiritual Science Church, a trust estate,

Complainants,

vs.

MARY GALTON and RAY L. CHESEBRO, City Attorney for the City of Los Angeles, State of California,

Defendants.

TRANSCRIPT OF RECORD

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

C. A. STICE

1314 Washington Bldg.

Los Angeles 13, Calif.

For Appellees:

RAY L. CHESEBRO,

City Attorney,

DONALD M. REDWINE,

Assistant City Attorney,

JOHN L. BLAND,

Deputy City Attorney,

WIXON STEVENS,

Deputy City Attorney,

Room 260, City Hall

Los Angeles 12, Calif.

In the District Court of the United States
Southern District of California
Central Division

CIVIL ACTION

No. 3409 B.H.

WM. L. GLADSTONE and H. H. HARRISON, Trus-
tees for Psychic Spiritual Science Church, a trust
estate,

Complainants,

vs.

MARY GALTON and RAY L. CHESEBRO, City At-
torney for the City of Los Angeles, State of Cali-
fornia,

Defendants.

FOR PROTECTION AGAINST DESTRUCTION OF
COPYRIGHT PERSECUTION AND UNCON-
STITUTIONAL LAW, AND FOR DAMAGES
ON ACCOUNT OF IRREPARABLE INJURIES,
LOSSES AND DAMAGES CAUSED, AND AP-
PLICATION FOR TEMPORARY RESTRAIN-
ING ORDER; TEMPORARY INJUNCTION and
PERMANENT INJUNCTION.

BILL OF COMPLAINT

Comes now the complainants, Wm. L. Gladstone and
H. H. Harrison, trustees for Psychic Spiritual Science
Church, a trust estate, and complains in this bill of com-
plaint in equity, against the defendants and each of them
for a cause of action, as follows, to wit:

1.

The complainants, Wm. L. Gladstone and H. H. Harrison, are the trustees for Psychic Spiritual Science Church, a trust estate, duly organized and existing under a contract and by virtue of the constitution of the United States, acting under common law rights of contract, with headquarters located at Reno, Nevada, and a resident agent therein Louise Carll, at said headquarters 414 First National Bank Building, said City and State of Nevada.

2.

The aforesaid defendants and each of them, Ray L. Chesebro, City Attorney for the City of Los Angeles, City Hall, City of Los Angeles, State of California, and Mary Galton a Police Officer for the City of Los Angeles, City Hall, City of Los Angeles, State of California, and that said defendants have at all times herein and at all times hereinafter mentioned, have held offices in the capacity herein set forth as such officials; and fictitious named defendants, Roe Corporation, a corporation, 1 to 10; Doe Corporation, a corporation, 1 to 10; Roe and Doe Corporation, a corporation, 1 to 10; A. White and B. Black, a copartnership, doing business under the style and firm name of White and Black, 1 to 10; Jane Doe, 1 to 10; John Doe, 1 to 10; and Does, 1 to 10; the correct, true names and addresses of the said fictitious named defendants are at this time unknown to complainants, and when same are correctly known, complainants will respectfully beg leave of the court to amend this bill of complaint in equity and substitute the correct names and addresses of said fictitious named defendants and each of them.

3.

Complainants aver, that for the jurisdiction of this cause and action, that the questions involved upon which this cause and action arises, that the above entitled court is through and by federal statutes given original and exclusive jurisdiction over the matters involved in cause and action, and that complainants have suffered irreparable injuries, losses and damages by and through the use of copyright destruction in depriving complainants of their property and property rights without due process of law, causing damages to complainants in excess of Three Thousand (\$3,000.00) Dollars over and above and in excess of all costs and attorney fees in the prosecution of this cause and action in the above entitled District Court of the United States.

4.

Complainants further aver, that the aforesaid Wm. L. Gladstone, has for the past fourteen years acted as Pastor for the aforesaid Church, and that on or about March 1, 1934, that the said Church was organized by contract under the provisions of the Constitution of the United States of America, and the said Wm. L. Gladstone has at all times in the past fourteen years acted as the Pastor of said Church and is now the Pastor of said Church, which said Church is located at 3846 Wilshire Boulevard, Los Angeles, California, wherein the services and business of aforesaid Psychic Spiritual Science Church are conducted as provided under the contract by which the trustees have established the said Church, as provided under the provisions of the Constitution of the United States of America, and as provided in contract

attached hereto in copy of said contract which is marked Exhibit A for identification and made a part hereof.

5.

Complainants further aver, that during the month of June, 1943, that the aforesaid Wm. L. Gladstone, Pastor and Trustee for the aforesaid Church, and while acting as Pastor and Trustee for said Church he was arrested by the said defendant Mary Galton a woman police officer for the City of Los Angeles, State of California, she at the time being accompanied by a man presumably an officer of the said city, at this time however, complainants do not know the name and address of the said man, which will be covered by the fictitious named defendants, if necessary to name said man, and the said Mary Galton escorted the said Wm. L. Gladstone to jail where bond was furnished by Wm. L. Gladstone for appearance in Municipal Court of the City of Los Angeles, County of Los Angeles, State of California, and on or about May 17, 1943, in case No. 18711, Municipal Court of the City of Los Angeles,, in said County and State, the said Wm. L. Gladstone through the inadvertance and inadvertant advice of counsel plead guilty to charge made against him and was fined One Hundred (\$100.00) Dollars, which the said complainant Wm. L. Gladstone paid in said case No. 18711 before the said Municipal Court.

6.

Complainants further aver, that on or about October 28, 1943, that the aforesaid defendant Mary Galton, again arrested the aforesaid Wm. L. Gladstone, and escorted him to jail, where he deposited a bond in the sum of Five Hundred (\$500.00) Dollars for appearance in case No.

21239, in aforesaid Municipal Court of the City of Los Angeles.

7.

Complainants further aver, that both of the aforesaid arrests were made by the aforesaid Mary Galton, under the provisions of Chapter 4, Article 3, Section 43.30 and charged that the said Wm. L. Gladstone had violated the said Section 43.30, the said Chapter 4, Article 3, Section 43.30 being of the Municipal Code of the City of Los Angeles, State of California.

8.

Complainants further aver, that the aforesaid Chapter 4, Article 3, Section 43.30, of the Municipal Code of the City of Los Angeles, State of California, is unconstitutional, because it is discriminating legislation contrary to the provisions of the Constitution of the United States of America, in the fact that in Section 43.31 of the aforesaid Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, in the State of California, exemptions are granted in the provisions of Section 43.30 of said Chapter and Article in said Municipal Code, wherein those exemptions are contrary to the provisions of the Constitution of the United States of America, and Federal Laws of the U. S. A.

9.

Complainants further aver, that Section 43.30 of Chapter 4, Article 3, of the Municipal Code of the aforesaid City of Los Angeles, in the State of California, reads as follows:

“Sec. 43.30—FORTUNE TELLING.

No person shall advertise by sign, circular, handbill or in any newspaper, periodical or magazine, or other publication of publications, or by any other means, to tell fortunes, to find or restore lost or stolen property, to locate oil wells, gold or silver or other ore or metal or natural product, to restore lost love or friendship or affection, to unite or procure lovers, husbands, wives, lost relatives or friends, for or without pay, by means of occult or psychic powers, faculties or forces, clairvoyance, psychology, psychometry, spirits, mediumship, seership, prophecy, astrology, palmistry, necromancy, or other craft, science, cards, talisman, charms, potions, magnetism or magnetized articles or substances, oriental mysteries or magic of any kind or nature, or numerology, or to engage in or carry on any business the advertisement of which is prohibited by this section.”

And Section 43.31 of said Chapter 4, Article 3, of said Municipal Code of the said City of Los Angeles, reads as follows :

“Sec. 43.31—FORTUNE TELLING—EXEMPTIONS.

The provisions of the preceding section shall not be construed to include prohibit or interfere with the exercise of any religious or spiritual functions of any priest, minister, rector or an accredited representative of any bonafide church or religion where such priest, minister, rector or accredited representative holds a certificate of credit commission or ordination under the ecclesiastical laws of a religious corpora-

tion incorporated under the laws of any state or territory of the United States of America or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system, or faith with which they are affiliated. Provided, however, that any church or religious organization which is organized for the primary purpose of conferring certificate of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a religious doctrine or belief, shall not be deemed to be a bonafide church or religious organization."

Complainants aver, that the said Sections 43.30 and 43.31 of the said Municipal Code of the said City of Los Angeles, operate in conjunction with each other as the same as if it was one section in the application of said Section 43.30 under which the aforesaid arrests were made of complainant Wm. L. Gladstone, by the aforesaid defendant Mary Galton as the arresting officer, therefore, on account of the extraordinary discrimination in the exemptions of said sections 43.30 and 43.31, the both said sections are unconstitutional and contrary to the provisions of the Constitution of the United States of America.

10.

Complainants further aver, that the aforesaid Sections 43.30 and 43.31 of aforesaid Municipal Code of the aforesaid City of Los Angeles were compiled and codified under the direction of aforesaid defendant Ray L. Chesebro, City Attorney for the aforesaid City of Los Angeles and

became effective November 12, 1936, and the said Ray L. Chesebro is made a defendant in this cause and action to defend said laws as their constitutionality is attacked; complainants hereof aver that the said sections 43.30 and 43.31 are unconstitutional in that the said sections exempt a priest, minister, rector or an accredited representative who holds a certificate of credit commission or ordination under the ecclesiastical laws of a religious corporation incorporated under the laws of any state or territory of the United States of America or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system, or faith with which they are affiliated. Complainants aver that the said ecclesiastical laws of a religious corporation such as set forth in said sections of said Municipal Code and as provided in said Municipal Code as to who fully conforms to the rites and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system, or faith with which they are affiliated, is an act and law that not only exempts contrary to the Constitution of the United States, but in addition thereto, grants an exclusive monopolistic privilege in religion to a certain group or said corporation which is contrary not only to the Constitution of the United States but also is contrary to the Federal laws prohibiting such exclusive privilege in religion or anything else in the way of any kind of business, monopolistic.

11.

Complainants further aver, that the aforesaid Mary Galton, has through prejudice of her personal religious beliefs used her official position as a woman police officer to especially persecute the aforesaid Wm. L. Gladstone as Pastor and Trustee for the aforesaid Church of complainants hereof, and the said Mary Galton on account of such persecution is made a defendant herein and the said Mary Galton has caused the complainants hereof irreparable injuries, losses and damages in excess of Fifty Thousand (\$50,000.00) Dollars, in her making the aforesaid two arrests and prosecution hereinbefore mentioned, and the said defendant Mary Galton has taken from the offices of the aforesaid trust estate under which the aforesaid Church of the complainants is organized, numerous records of the trustees records, including papers, records, and a Holy Christian Bible, all of which are trustees records, and said trustees records belonging to the trustees for said Church, was in the aforesaid arrests made by said Mary Galton taken and carried away by said Mary Galton contrary to the provisions of the Constitution of the United States of America and the said Mary Galton has persecuted the said Wm. L. Gladstone under the provisions of the aforesaid unconstitutional sections of the aforesaid Municipal Code in a vindictive and prejudiced manner by making numerous arrests as aforesaid contrary to the provisions of the Constitution of the United States of America, and complainants fully believe that the said Mary Galton will continue to make further and continuous arrests under the provisions of the aforesaid unconstitutional Municipal Code, causing further irreparable injuries, losses and damages to complainants unless the

court issues a temporary restraining order restraining the defendants and each of them.

12.

Complainants further aver, that the aforesaid Mary Galton has during services in the aforesaid Church of which Wm. L. Gladstone is the Pastor and one of the trustees, the said Mary Galton used her authority to arrest a guest minister while said minister was preaching to the congregation of said Church during services in said Church, and the said arrest by the said Mary Galton was made during service in said Church of said guest minister while the said guest minister was preaching the said service, on or about during the month of June 1943, at the said Church, and the said arrest by the said Mary Galton was made for the sole purpose to destroy the said Church and the copyrights and copyrighted matter of the trustees for said Church which are used in the conducting of the religious services of said Church, and in continuous persecution of the said Mary Galton by the aforesaid numerous arrests the complainants have been caused irreparable injuries, losses and damages to the extent of Fifty Thousand (\$50,000.00) Dollars.

And further arrests and damages are threatened to complainants and damages which will far exceed the aforesaid amount of damages in the sum of Fifty Thousand (\$50,000.00) Dollars which the said Mary Galton has already caused to complainants, therefore, on account of the threatened further irreparable injuries, losses and damages, it is most necessary and vital that a temporary restraining order, temporary injunction and permanent injunction be issued by the above entitled court to prevent the occurrence of further irreparable injuries,

losses and damages which are threatened as set forth in this bill of complaint in equity.

13.

Complainants further aver, that the said complainant and trustee Wm. L. Gladstone in 1916 as the bibliographer compiled a book and work entitled, "Spiritualism and a Guide to Mediumship," and the bibliography of said book was the Holy Scriptures of the Holy Bible, and upon application by the said trustee Wm. L. Gladstone, for a copyright, the United States Copyright Office, at Washington, D. C., issued to the said Wm. L. Gladstone, a copyright on the work of said book, which said copyright is now in effect, and said book is now used as one of the text books in the work of God in the aforesaid Church of which the said Wm. L. Gladstone is the Pastor and trustee. and the said Wm. L. Gladstone as the bibliographer, has from time to time and recently written and compiled many manuscripts and work which are used as a text in the said Church, and said manuscripts and work are all founded upon the Holy Scriptures of the Holy Bible which are the bibliography of said manuscripts, and the said manuscripts and work as compiled are also protected by the Copyright Act of the United States of America, and regardless of said Copyright Act, and ignoring the said Copyright Act, the aforesaid defendant Mary Galton has continued her campaign of persecution by and through the aforesaid numerous arrests in her endeavor to not only deprive the said Wm. L. Gladstone of his liberty, but also to destroy the said Copyrights and copyrighted works contrary to the provisions of the Constitution of the United States and the Copyright Act of the United States, and in each of the aforesaid arrests made

by the said Mary Galton of the said Wm. L. Gladstone, she illegally confiscated Copyrighted work of the complainants hereof and also took from the offices of aforesaid Church trustees records in addition to the said copyrighted work, in her prejudiced campaign of persecution against the said Wm. L. Gladstone, the complainants and the said Church for the sole purpose of destruction of said copyrights and copyrighted works and the said Church and the said Mary Galton has caused to the complainants irreparable injuries, losses and damages in excess of Fifty Thousand (\$50,000.00) Dollars, and complainants are further threatened with irreparable injuries, losses and damages which makes it most necessary and vital for a temporary restraining order to be issued by the above entitled court to restrain this fraud that is being perpetrated upon complainants hereof by the said Mary Galton defendant herein.

14.

Complainants aver that the liberty of aforesaid Pastor Wm. L. Gladstone is also threatened by the aforesaid Mary Galton.

WHEREFORE, complainants pray for process and judgments as follows, to wit:

1. That a temporary restraining order issue out of the above entitled court, restraining and enjoining the aforesaid defendants and each of them, their agents, representatives, servants, employees, attorneys, officers, and all others including those in active concert or participation with said defendants and each of them, from doing anything whatsoever to impede, molest, hinder, delay or obstruct, harrass or annoy, or to conduct any procedure pertaining to the matters herein involved, wherein their

actions will operate against the complainants herein, and that said defendants and each of them be ordered and directed to appear at such time and place and show cause if any they may have, why a temporary injunction should not issue herein as provided in said temporary restraining order, during the pendency of this cause and action.

2. That upon hearing that the temporary restraining order become a temporary injunction and that a temporary injunction issue and be entered herein.

3. That upon final hearing of the above entitled matter, that the aforesaid temporary injunction become a permanent injunction, and that a permanent injunction issue and be entered herein.

4. That the defendants and each of them be ordered to return the trustees records, papers and Holy Bible which was illegally taken from the office of the said Church from the trustees offices in Los Angeles, California, by the defendant Mary Galton.

5. That the complainants be awarded and given judgment against the defendant Mary Galton in the sum of Fifty Thousand (\$50,000.00) Dollars as compensated damages for the irreparable injuries, losses and damages the said defendant has caused to complainants.

6. That the complainants be awarded and given judgment for attorneys fees including court costs and all other costs and expenses accruing in the prosecution of this cause and action, and that the court make an order accordingly.

7. That the court make an order awarding the complainants declaratory relief against the persecutions such as are set forth in the bill of complaint in equity in this cause and action.

8. That the aforesaid Sections 43.30 and 43.31 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, be adjudged and decreed as being unconstitutional and contrary to the Federal Laws and Constitution of the United States of America, and null and void and of no effect whatsoever, and that a judgment be rendered to such effect.

9. That the defendant Mary Galton may be ordered to return to complainants all the monies which have been imposed and fines as paid by the aforesaid Wm. L. Gladstone. Pastor and Trustee for the aforesaid Church and trust estate, under the provisions of the aforesaid Sections 43.30 and 43.31 of the Municipal Code of the aforesaid City of Los Angeles, which consists of expense, fines, costs and attorneys fees amounting to Five Hundred (\$500.00) Dollars and that complainants be awarded and given judgment for the said amount of Five Hundred (\$500.00) Dollars.

WHEREFORE, complainants pray for aforesaid persecutions, to be restrained, and for such other order, orders, aid and relief as the court may deem just and proper in the premises.

Exhibits A and B attached hereto and made a part hereof in support of bill of complaint in equity hereof.

Memorandum of Points and Authorities filed herewith and made a part hereof in support of Bill of complaint in equity hereof.

Dated: Los Angeles, California, December 18, 1943.

C. A. STICE,

C. A. Stice

Solicitor for Complainants.

[Verified.]

EXHIBIT A.

CONTRACT AND AGREEMENT TO ESTABLISH
AN ORGANIZATION UNDER THE PROVI-
SIONS OF THE CONSTITUTION OF THE
UNITED STATES OF AMERICA.

I.

The name of this organization shall be:

PSYCHIC SPIRITUAL SCIENCE CHURCH

II.

PURPOSE: Teaching and Preaching Divine Wisdom, Truth Founded upon the Word of God, as set forth in the Holy Scriptures. As follows:

(a) And further to teach privately or collectively, to individuals or groups, and publicly in classes by lectures, courses, text books, psychic and message readings, and any other method customarily used to imparting knowledge, relative to the laws of God governing spiritual and material life, existing in the image of God and in our own personal image, the recreation of life and the Spirit of God governing the welfare of humanity upon earth and in the Spirit World of God:

(b) To teach, preach and give, in the manner as above set forth, to all people or peoples in search of Divine Wisdom, and Intellectual Spiritual Knowledge and Facts concerning the Godly version of life as we have seen it in the past and will observe it in the future as provided and set forth under God's Laws in the Holy Scriptures, and to preach, teach, lecture, and to give psychic spiritual readings individually, collectively or in groups in circle or otherwise, which shall also include Psychology, Science

of Mind, Spiritual and Psychic Teachings and Psychology, Psychic Philosophy, Metaphysical and Astrological Science, Psychic Spiritual Science, as set forth in the Scriptures of the Holy Bible, or any subject of educational value which interpret the Divine Wisdom, Intelligence and Word of God, in relation to the knowledge of the Spirit of God within us, the recreation of life, and the spiritual and material existence of life within our own image.

(c) To teach and practice the art of mental healing as taught by Jesus Christ and the methods of Divine healing as used by Christian Scientists, Psychologists, Scientific Mental Healers and any other method of mental healing which may be devised and as set forth in the Scriptures of the Holy Bible.

(d) To aid all persons and organizations through the use of prayer and spiritual supplication to the Divine Wisdom, Truth and Power of God Almighty, in overcoming spiritual and mental disturbances and difficulties.

(e) To do and perform every lawful act and thing necessary to carry out the foregoing provisions and purposes wherever this foregoing named Holy Church may find its activities under the provisions of the Constitution of the United States of America, in carrying on its work in the Word of God and His Work as set forth in the Scriptures of the Holy Christian Bible.

III.

OFFICERS

The officers of this organization shall be:

(a) A Pastor, who shall be president and a trustee thereof as provided herein within this contract:

(b) A Secretary, who shall keep the records of the trustees of all proceedings of this organization and perform such other duties which are generally performed by the secretary of any organization, and the secretary shall collect and disburse all funds in the maintenance of this Church and the secretary shall in lieu of a treasurer may choose and select a bank as the depository for the funds belonging to this Church, and the Secretary shall also be a trustee for this organization.

(c) All officers and trustees shall be elected by a majority vote of the trustees, and the trustees may be three in number, more or less, and shall hold office by a majority vote of the trustees, and other trustees may be added and provided in case of death, resignation, malfeasance in office or obvious tort, and the trustees shall hold title to all property in this trust estate of this Church hereof, and the trustees may enter into and conduct any and all kinds of business necessary and incident hereto and may do any and all things which are necessary in the conduct of the affairs and business of this contract under which this trust estate for the Church hereof is established and the foregoing name of this organization is the business name of the trustees which is Psychic Spiritual Science Church, and the business of this contract under which this Church is established shall be conducted under the provisions of the Constitution of the United States of America and as herein provided.

IV.

MEMBERSHIP OF THIS CHURCH.

Any person of good moral character and standing in the community is eligible to membership of the Church hereof, and all applications for membership shall be submitted orally or in writing or both at a regular meeting of the Church schedule of meetings and submitted to the trustees for approval or rejection by the trustees, and a majority vote of the trustees present shall determine the disposition of the applicant's application for membership in the Church hereof. All members of the Church hereof, shall contribute within their discretion, to the financial obligations of the Church as God has prospered each of the members hereof, and as the Spirit of God within them prompts them to do in the support of the Church on doing the Work of God Almighty as herein provided under the provisions of the Constitution of the United States of America. No member is authorized to incur any obligation against this estate under which this Church is organized as herein provided. Members may hold meetings of approbation or protest, but said meetings of members shall in no manner effect the rights of the trustees in the management of the affairs of the estate of the Church hereof or in holding title to the property of this estate, and all members are subject to the terms and conditions as set forth and provided in this contract under which the estate of the Church hereof is established by the trustees for this estate in trust as herein provided.

V.

This conveyance, acceptance and contract under which this Church is established, made and entered into in triplicate on the day and date below written by and between Wm. L. Gladstone and H. H. Harrison, each of whom are hereby designated the trustees for this estate in trust and joint tenancy holders, who with associate or successor trustees, may by virtue hereof act collectively under the business name and of the trustees herein designated which is hereby adopted.

That for and in consideration of One (\$1.00) Dollar, lawful United States money and other valuable considerations, receipt of which is hereby acknowledged by Wm. L. Gladstone, herein designated as the Conveyer and to be known herein as the Conveyer, and in consideration of the objects and purposes herein set forth and provided, the said conveyer does hereby sell, assign, convey, transfer and deliver to the aforesaid named persons herein designated as trustees for this trust estate which is established by this contract, the property sold, assigned, conveyed, transferred and delivered to said trustees for this estate in trust to constitute the initial trust estate herein, is described as follows: Certain manuscripts written by the said conveyer and One (\$1.00) Dollar lawful United States money. The property described herein is hereby accepted by the trustees, and the trustees may name their successors and perform a dissolution at any time for good and sufficient reasons.

VI.

The General Headquarters of this trust estate are located at Reno, Nevada, at address as follows: 414 First National Bank Bldg. And Louise Carll is the resident agent at said address. Branch offices may be established elsewhere.

VII.

Filing and recording this contract in the County Recorder's Office in the County and State wherein the general headquarters of the trustees are located as specified herein, shall be notice to the entire world that all obligations and debts of this trust estate must look to the funds and assets of this estate for payment of same, and trustees, officers, agents, representatives and members or others interested in this estate shall not be personally held in any manner for the payment of said obligations and debts beyond the assets and funds of this trust estate in extent and value.

The beneficiaries of this trust estate are as set forth in the trustees records.

It is unanimously voted and resolved, that the Officers of the Board of Trustees, are hereby designated as follows, to wit:

WM. L. GLADSTONE, President. H. H. HARRISON, Secretary.

We, the Conveyor and Trustees hereby mutually subscribe ourselves the day and year below written, in confirmation, acceptance and adoption of the terms and conditions herein set forth and provided under the pro-

visions of God's Laws and the Constitution of the United States of America.

WM. L. GLADSTONE

Signature of Wm. L. Gladstone,
Conveyor.

WM. L. GLADSTONE

Signature of Wm. L. Gladstone,
Trustee.

H. H. HARRISON

Signature of H. H. Harrison,
Trustee.

The said trustees in their collective capacity as a Board of Trustees have hereunto subscribed confirmation in their *respective*

EXHIBIT B

ASSIGNMENT

I, the undersigned, Wm. A. Gladstone, Pastor and Trustee for the trust estate of Psychic Spiritual Science Church, do hereby assign all my right, title and interest in and to any and all copyrights which I may own or any interest I may have in same to the trustees for said Psychic Spiritual Science Church, and I also do hereby assign all my rights, title and interest in and to any damages, equities or monies which I may be entitled to from any source whatsoever through and by any law suit for damages, and said assignments are hereby made to the trustees for Psychic Spiritual Science Church, in consideration of One (\$1.00) Dollar and other valuable considerations, receipt of which is hereby acknowledged, and any property of said assignments is to be held in trust by the

trustees as provided under the contract by which the said trust estate is established.

WM. L. GLADSTONE,
Wm. L. Gladstone,
Pastor and Trustee, for
Psychic Spiritual
Science Church.

ACKNOWLEDGEMENT

This Is To Certify, that Wm. L. Gladstone, personally known to me, appeared in person before me, a Notary Public, in and for the County of Los Angeles, State of California, and acknowledged to me that he signed and executed the foregoing instrument of his own voluntary sane act and deed for the uses and purposes therein set forth and provided on the 26th day of December, 1943.

(Notary Seal)

EDNA M. TILTON,
Notary Public.

My Commission Expires on the 22d day of July, 1944.

The above assignment is hereby accepted by the Trustees for Psychic Spiritual Science Church, on the date of above acknowledgment.

Wm. L. Gladstone,
Signature of Wm. L. Gladstone, Trustee.

H. H. Harrison,
Signature of H. H. Harrison, Trustee.

TRUSTEES FOR PSYCHIC SPIRITUAL
SCIENCE CHURCH.

[Endorsed]: Filed Jan. 18, 1944.

[Title of District Court and Cause.]

NOTICE OF MOTION TO DISMISS COMPLAINT
FOR INJUNCTION AND FOR INJURIES
CAUSED BY DESTRUCTION OF COPY-
RIGHT.

To the above named complainants, and to C. A. Stice,
their attorney:

Notice Is Hereby Given, that in the courtroom of the
Honorable Ben Harrison, Judge of the above entitled
court, on the 31st day of January, 1944, at the hour of
10 o'clock A. M., or as soon thereafter as the convenience
of the Court will permit, the above named defendants
will move the Court to dismiss the complaint filed in the
above entitled action, on the grounds and for the reasons
that:

I.

Said complaint does not state facts sufficient to show
that this Court has jurisdiction of the cause of action
therein attempted to be stated.

II.

Said complaint fails to state facts sufficient to con-
stitute a cause of action against the above named defend-
ants, or against either of them.

Said motion will be based upon the files and papers
in said action.

DONALD M. REDWINE,
Assistant City Attorney,
WIXON STEVENS,
Deputy City Attorney,

John L. Bland
JOHN L. BLAND,
Deputy City Attorney,
Attorneys for Defendant RAY L. CHESEBRO.

RAY L. CHESEBRO,
City Attorney,
DONALD M. REDWINE,
Assistant City Attorney,
WIXON STEVENS,
Deputy City Attorney,
John L. Bland,
JOHN L. BLAND,
Deputy City Attorney,
Attorneys for Defendant MARY GALTON.

ORDER SHORTENING TIME.

Good Cause Appearing Therefor, it is hereby ordered that time for service of the above Notice of Motion be, and it is hereby shortened, and that said Notice may be made upon the attorney for complainants at any time prior to 5 o'clock P.M., January 25, 1944.

Dated this 25th day of January, 1944.

PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed Jan. 25, 1944.

[Title of District Court and Cause.]

AFFIDAVIT OF MARY GALTON IN OPPOSITION
TO ISSUANCE OF PRELIMINARY INJUNC-
TION.

State of California,
County of Los Angeles—ss.

Mary Galton, being first duly sworn, deposes and says:

That she is a policewoman and as such is a regularly commissioned mmeber of the Police Department of the City of Los Angeles;

That on April 29, 1943, in the performance of her assigned duty of investigating persons believed to be telling fortunes in violation of the provisions of the Los Angeles Municipal Code, she visited the premises located at and known as 3846 Wilshire Boulevard, at about the hour of 2:30 P.M. That upon entering the premises at said address she was greeted by Wm. L. Gladstone, who ushered her into his office, and in reply to a question by the affiant, stated: "I have two, three and five dollar readings;" whereupon affiant asked: "What is the difference?" In reply thereto the said Gladstone stated: "They are semi-trance, dead trance and astoral dead trance; you get out of it what you put into it. Whichever you decide, lay the money on the Bible, as I am a trance reader."

That affiant thereupon placed \$3.00 on a very worn, dirty and old Bible, at which time the said Gladstone reached across the desk and took hold of affiant's hand and held them tightly for the remainder of the reading. That while so holding the hands of affiant the said Gladstone said: "I got a bright light around you. I see a man who has been in the Spirit World a long time.

He is tall, broad shoulders, is protecting and watching out for you. There are many spirits in the Spirit World who are interested in you. I see a man with gray hair. I see for you a lovely home, and I see you walking up to it and your husband opening the door to greet you. You will have success in 1943, '44, '45, '46, '47, '48, '49 and '50. I see a change for you. In 1950 you will have an illness, and you must be sure to get a good physician. I see you having an automobile accident in crossing the street; there is glass all around you. You must be very careful. If you are careful and survive the accident and the illness you will live to be 80 and past."

That after the said Gladstone told the affiant that she might ask some questions, she asked the question: "Is my husband alive?" In reply thereto the said Gladstone stated: "I don't get him among those who have gone on." Thereupon affiant asked: "Is he alive then?" and the said Gladstone answered: "If he isn't dead he must be alive." Thereupon affiant asked: "How will the lawsuit over my mother's will come out?" to which question the said Gladstone answered: "Keep up the lawsuit and fight it out and I see you coming out successfully." The affiant then asked of the said Gladstone: "What about the other man who is interested in me?" to which the said Gladstone replied: "He is very sincere and honest and loves you very much and is a very fine man. What is his occupation?" and affiant answered: "He is an Executive at Lockheed." Thereupon the said Gladstone said: "Yes, I see he will be very successful and you will be very successful too. I see a change for you that will bring you much success; stick to this man." Thereupon affiant stated: "But I am married," and Gladstone replied:

“Yes, I know it, but you know many, many of the boys are lost in the jungles and are prisoners of war and are being killed off and starved, not only by the Japanese but by the Germans—this is not Hitler’s war, this is the Kaiser’s war, his generals and majors are the ones that are causing the trouble.”

Affiant then asked: “When will the war end?” and the said Gladstone answered: “I don’t know but I see that very soon a white flag will be run up,” and affiant asked: “Who will put it up?” and Gladstone answered: “The whole world will. This is the flag of Peace. You know we don’t have enough planes to fight; really we have enough planes but I have it from high authority that there are not enough men to fly the planes.”

The said Gladstone further stated: “For \$5.00 a week I will pray for you at 8:00 in the morning, at noon, and at 8 o’clock at night, and work out your problems for you spiritually. I do it for many others, and for that I will also give you the lesson sheets which you will read.”

Thereafter, on April 30, 1943, at the hour of 7:10 P.M. affiant, after having read a newspaper advertisement and an advertisement in front of the premises located at 3846 Wilshire Boulevard, in the City of Los Angeles, again entered the premises at 3846 Wilshire Boulevard to attend a “Message Circle.” Upon entering the premises the affiant observed approximately six people in attendance, seated in a room containing 29 folding chairs. Also in the room was a middle aged woman of medium build, with gray hair, who spoke in an illiterate manner, and who was giving readings to each person, one at a time. The affiant remained in the room until 8:30 P.M., during which time approximately nine additional people entered.

The woman above mentioned who was giving the readings (hereafter spoken of as the "reader") told one woman that she, the reader, saw illness around her and someone in a wheel chair. The woman to whom the reading was being given said her husband was ill and she was worried about his recovery. The reader replied: "I told you I saw someone in a wheel chair." The woman then replied: "But my husband hasn't been out of bed for six months. Will he live?" The reader said: "No, I have bad news for you. He will never get up from his bed and he will die soon."

The reader told another woman that she, the reader, could feel for her a pain in her stomach. The woman said: "No, not in my stomach, but sometimes in my back." The reader then said: "The pain went from the stomach to the back," and that she could see the stove over there (pointing to the north) and on that stove she should heat some goose grease and turpentine together and rub on her back.

The reader told a man who was then and there present that he was going to change his occupation and work much harder, and that the clock was up there (pointing) and that he should be careful not to forget to wind the clock. The man replied that he never wound the clock as it was an electric clock. The reader then stated that something would be wrong with the clock and it was impossible to get clocks now, so he would have a clock there that would have to be wound. The reader further stated that she got a message from the Spirit to tell everyone that they should buy up a supply of soap—both toilet and laundry—and of matches, because they soon would not be able to buy any.

The reader told another woman that she, the reader, saw a washing machine over there (pointing) and there was something wrong with the washing machine; something wrong in the gears. The woman replied that she didn't have a washing machine and didn't know of anyone who had anything wrong with her's.

The reader then turned to affiant and said: "I get the name 'Rosie,'" to which the affiant answered: "I don't know any Rosie." The reader then said: "You have just had a great disappointment," to which affiant answered: "I can't think of any." The reader then said: "Yes, you have had many disappointments in your life," and continuing the reader said: "Little girl, you are going to have to learn to wash dishes, but it will not be for money; in fact, I see you washing lots of dishes, large sinks full. It may even be for the Army or Navy. I get the name Josephine, or Jo," to which the affiant replied that she didn't know any Jo, whereupon the reader said: "Yes you do, you have to use your head." The reader then asked the affiant to ask a question, and affiant asked: "Will I take a position?" to which the reader replied: "Yes, I see you doing a great deal of work; working hard and long." Affiant asked: "Where?" "And doing what?" to which the reader replied: "You will work for the Government. I see a dresser over there (pointing to the north) and I see you dressing for work in front of it. I get the name 'Al.'" The affiant stated that she didn't know any Al, but the reader insisted and finally the affiant stated that one of her in-laws was named Al, and the reader stated: "Of course, that is the same as your own relative, and he is the one who is telling me about your going to work."

When the affiant entered the said premises on the evening of April 30, 1943, she was stopped at the door by Wm. L. Gladstone who blocked the door and held out his hand, saying: "Donation please." The affiant asked "How much?" and Gladstone replied: "Fifty cents," at which time affiant gave Gladstone fifty cents before she entered. There was also a sign inside the room where the readings were given which read: "Donations 50¢."

That thereafter, on May 7, 1943, the affiant, together with another police officer, on or about the hour of 8:15 P.M., again entered the premises at the address above named and were greeted at the door by Gladstone, who held out his hand and said: "Donation please." The officers then gave Gladstone a dollar and entered the room heretofore referred to, and in which were seated ten people. The woman heretofore described and referred to, was again giving readings. The reader stated to a young man that he ate too fast and that it was going to make him sick, but that he could avoid that by eating more slowly and chewing his food more. She, the reader, said: "I see the beach; I see a ferris wheel; somebody likes to ride on the ferris wheel."

The reader said to a woman who was then present: "You are going to be married shortly, and be involved in two legal suits shortly." The woman asked the reader if she were going to get a divorce, and the reader said "Yes," and told the woman that she would not have any trouble getting it but that she would be back in court within six months. The reader told her that she wouldn't get anything out of the divorce and that she would have to work for anything she got.

The reader told another woman then present that she came from a fine family and that everything was very fine around her, but that she saw a man hanging right there in the room; it was the Spirit of someone who had hanged himself. The woman said that she didn't know of anyone, and the reader stated that she could see him there so plainly that if she had a camera she could snap his picture. The reader told another woman that she got the name "Mary," to which the woman replied that she knew many Marys, in fact everyone knew a Mary, at which time the reader said: "Ouch, don't do that," and at this time winced as though someone had struck her, and said: "Lady, you shocked the spirits."

The reader then turned to the side as though she were listening to spirits, and said: "Oh, you want me to tell all of them?"—"Yes, I'll tell them." Then the reader turned to the assembly and said: "The spirits tell me to tell you all to stock up on soap of all kinds, and matches, because they will not be made shortly."

The reader also told one woman the exact item regarding a washing machine as affiant had heard her tell on the previous Friday, and told another woman she saw the stove and saw this woman getting burned on the stove. She told another woman that she saw someone who had been bitten by a dog, and the woman said that she could not remember anyone. The reader insisted and the woman finally stated that many years previously her brother had received a slight wound from a dog bite on the ankle. The reader then stated that he must be very careful as he was going to have trouble with that old wound.

Affiant further states that on May 14, 1943, she, together with another police officer, entered the above named

premises at a time when the woman above described was giving a reading, and affiant and the other police officer sat down. Shortly thereafter the said Gladstone came in and interrupted the reader by saying: "Mrs. Johnson, I just wanted you to know that these are the people that took me away this afternoon." Mrs. Johnson, the reader, then made the following statement:

That she organized her own church which was the First Church of Divine, which was named after a friend named Grace Divine, now deceased; that she got the charter from Sacramento; that it was a Spiritualist Church but that she had been a Lutheran from birth. Throughout the conversation, many times, without provocation, she would exclaim: "Bless you darling heart." She stated that her husband and all her children were Catholic and in her purse were two Catholic scapula medals. She stated the live ones are the dead ones and the dead ones are really the live ones. She stated that she had worked for Gladstone for years, on a 50-50 basis; that Gladstone did the advertising in his name but that she did the work. She said to affiant: "You are psychic, you get hunches," and affiant replied: "Oh, yes, everyone does," and Mrs. Johnson answered: "I know it." She stated that she did not know any of the people who came to the circle meetings because the same people never came twice.

MARY GALTON.

Subscribed and sworn to before me this 25th day of January, 1944.

Paul Palmer (Seal)

Notary Public in and for said County and State.

My Commission expires Sept. 27, 1944.

[Endorsed]: Filed Jan. 25, 1944.

[Title of District Court and Cause.]

ANSWER TO COMPLAINT FOR PROTECTION
AGAINST DESTRUCTION OF COPYRIGHT,
PERSECUTION AND UNCONSTITUTIONAL
LAW, AND FOR DAMAGES ON ACCOUNT
OF IRREPARABLE INJURIES, LOSSES AND
DAMAGES CAUSED, AND APPLICATION
FOR TEMPORARY RESTRAINING ORDER;
TEMPORARY INJUNCTION AND PERMA-
NENT INJUNCTION.

Comes now Ray L. Chesebro as City Attorney of the City of Los Angeles, and Mary Galton as a police officer of the City of Los Angeles, defendants in the above entitled action, each appearing for himself alone and for no other, and in answer to the complaint filed in such action admits, denies and alleges as follows:

I.

Defendants deny generally and specifically each and every allegation contained in Paragraph 1 of Complainants' complaint in the above entitled action.

II.

Defendants deny generally and specifically each and every allegation contained in Paragraph III of said complaint, and specifically deny that the Complainants or either of them have been damaged in a sum in excess of \$3,000.00 or in any other sum whatsoever by or on account of any acts committed by these Defendants or either of them.

III.

Defendants deny generally and specifically each and every allegation contained in Paragraph IV of said complaint.

IV.

In answer to Paragraph V of said complaint, Defendants deny that the Complainant Wm. L. Gladstone was, in June 1943 arrested by Defendant Galton, and in this connection allege that after an investigation extending over a period of 30 days which investigation disclosed that the said Gladstone was engaged in the business of telling fortunes, the Defendant Galton arrested the said Complainant on or about May 14, 1943 for having violated the provisions of Section 43.30 of the Los Angeles Municipal Code and that thereafter a complaint was regularly filed in the Municipal Court charging the said Complainant with having violated said section of the Municipal Code of the City of Los Angeles, and that the said Gladstone thereafter, after being advised by counsel, pleaded guilty thereto.

Defendants deny that the plea of guilty of the offense charged in said complaint was entered through inadvertence of the said Gladstone and of his attorney.

V.

Defendants admit the allegations contained in Paragraph VI of said complaint and in this connection allege that after the arrest of defendant as set out in said Paragraph, a criminal complaint was filed against the said Wm. L. Gladstone charging him with having violated the provisions of Section 43.30 of the Los Angeles Municipal Code, and that thereafter the said Gladstone entered a plea of guilty to said charge.

VI.

Defendants deny generally and specifically each and every allegation contained in Paragraph VIII of said complaint.

VII.

Defendants admit that the provisions of Section 43.30 and 43.31 as set out in Paragraph IX of the said complaint constitute a true and correct copy of the above numbered section of the Los Angeles Municipal Code and deny generally and specifically each and every allegation contained in said Paragraph IX not herein in this Paragraph of their answer specifically admitted.

VIII.

In answer to Paragraph X of said complaint Defendants deny that said Sections 43.30 and 43.31 or either of them are unconstitutional for the reasons stated therein or for any other reason whatsoever.

IX.

Defendants in answer to Paragraph XI of said complaint allege that at the time of the arrest of Complainant Gladstone on May 14, 1943 Defendant Galton took for use as evidence the following articles:

- 1 bundle of lesson sheets
- 1 sign reading "Donation to Church 50¢"
- 1 certificate, Church of Religious Science
- 1 certificate, Church of Divine Light
- 1 certificate, Golden State University (D D)

1 Bible, which was used by the said Gladstone as a receptacle for money paid by persons having their fortunes told and that at the time of the arrest of the said Gladstone on October 28, 1943 such Defendant took for use as evidence certain books and papers including one Bible and also two Five (\$5.00) Dollar bills and a One (\$1.00) Dollar bill. All of the articles taken at the time of the aforesaid arrests were seized for use as evidence and for no other purpose and have been returned to the said Gladstone prior to the institution of this action. Defendants deny that the Defendant Galton has through prejudice of her religious beliefs used her official position to in any manner persecute the said Wm. L. Gladstone; deny that the said Mary Galton has in any manner whatever caused the Complainants to suffer injuries, losses or damages in the sum of Fifty Thousand (\$50,000.00) Dollars or in any other sum whatever; deny that the said Defendant has taken from the offices of the trust estate or elsewhere any papers, records or other property other than that hereinbefore in this Paragraph of Defendants' answer specifically named, all of which Defendant believes to be and alleges to be the property of the said Wm. L. Gladstone.

Defendants deny generally and specifically each and every allegation contained in said Paragraph XI not hereinbefore specifically admitted or denied.

X.

In answer to Paragraph XII of said complaint Defendants deny that the Defendant Galton ever at any time or

at all arrested a guest minister of the Psychic Spiritual Church while such minister was preaching to a congregation of said church or while said minister was preaching the service in said church, and deny that said defendant arrested such guest minister or any other person for the purpose of destroying said church and the copyrights and the copyrighted matter of the trustees of said church or for any of said purposes and further deny that by reason of the persecutions of the said Defendant Galton by continuous arrests or by any other means whatsoever the said Complainants have been caused injuries, losses or damages in the sum of Fifty Thousand (\$50,000.00) Dollars, or in any other sum whatever, and in this connection the Defendants allege that on or about the 14th day of May, 1943, the Defendant visited the premises located at and known as 3846 Wilshire Boulevard in the City of Los Angeles and there found one Mrs. Johnson engaged in the act of telling fortunes in violation of the provisions of the Ordinance of the City of Los Angeles, and that the said act of the said Mrs. Johnson constituted a misdemeanor committed in the presence of the Defendant Galton whereupon said Defendant arrested the said Mrs. Johnson and caused her to be charged in the Municipal Court of the City of Los Angeles with the commission of a misdemeanor.

Defendants further allege that the said arrest above named was made in the regular performance of the duties of such Defendant as a police officer of said City. De-

Defendants further allege that any and all articles taken by the said Defendant Galton were taken for use as evidence against the said Mrs. Johnson and for no other purpose.

Defendants further deny that threatened arrests of said Complainants will cause injury, damage or loss to the Complainants other than such loss or injury as is the natural and usual damage suffered by persons who violate the Penal laws of the State and are prosecuted therefor.

XI.

In answer to Paragraph XIII of said complaint Defendants allege that they are without information or belief sufficient to enable them to admit or deny the allegations that the Complainant Wm. L. Gladstone has compiled certain books and papers and that the same have been copyrighted and that said books and papers are used as texts in the Psychic Spiritual Science Church and upon such lack of information and belief Defendants deny each and every allegation above referred to as being set out in said Paragraph XIII.

Defendants further deny that the Defendant Galton has continued a campaign of persecution by and through numerous arrests of the Complainant Wm. L. Gladstone, or otherwise in an endeavor to deprive the Complainant Wm. L. Gladstone of his liberty or to destroy any copyrights or copyrighted works whatsoever, and said Defendants further deny that the said Defendant Galton illegally confiscated copyrighted works of the Complainants or of either of them for the purpose of destruction

of said copyrights or copyrighted works or of said church or for any other purpose whatever and in this connection allege that all seizures of books and papers made by the Defendant Galton were lawfully made for the sole and only purpose of using such books and papers in the criminal prosecution of the said Wm. L. Gladstone and the Mrs. Johnson heretofore named in this answer.

Defendants further deny that the Defendant Galton has caused in any manner injuries, losses or damages to the Complainants in this action or to either of them in the sum of Fifty Thousand (\$50,000.00) Dollars, or in any other sum whatever and further deny that the Complainants are threatened with any future injury, loss or damage because of any threatened or contemplated action of these Defendants or either of them.

XII.

In answer to Paragraph XIV of said complaint Defendants deny that the liberty of the Complainant Wm. L. Gladstone is threatened by the Defendant Galton except to the extent that the lawful enforcement of the Ordinances of the City of Los Angeles and of the Statutes of the State of California may result in curtailment of his liberty.

Wherefore, Defendants pray that this Honorable Court make and enter its order and judgment denying the Complainants Wm. L. Gladstone and H. H. Harrison an *injunction* against these Defendants or either of them; denying the Complainants any relief whatever under their complaint, giving these Defendants judgment for their costs

and for such other and further relief as may be just and proper in the premises.

Respectfully submitted,

RAY L. CHESEBRO,

City Attorney,

DONALD M. REDWINE,

Assistant City Attorney,

WIXON STEVENS,

Deputy City Attorney,

John L. Bland,

JOHN L. BLAND,

Deputy City Attorney,

Attorneys for Defendant Mary Galton.

DONALD M. REDWINE,

Assistant City Attorney,

WIXON STEVENS,

Deputy City Attorney,

John L. Bland,

JOHN L. BLAND,

Deputy City Attorney,

Attorneys for Defendant Ray L. Chesebro, City
Attorney for the City of Los Angeles, State of
California.

[Verified.]

[Endorsed]: Filed Jan. 25, 1944.

[Title of District Court and Cause.]

OBJECTION TO MOTION TO DISMISS AS MADE
BY DEFENDANTS, UPON GROUNDS THE
ABOVE NAMED COURT HAS JURISDICTION.

Comes now the complainants and objects to the motion to dismiss as made by the defendants and each of them, upon grounds that the above entitled court has jurisdiction, which said grounds are as follows:

1. A federal question and violation of a federal statute is involved in the above entitled cause and action, over which the above entitled court has original and exclusive jurisdiction, which said federal statute has been violated by the defendants against lawful rights granted to complainants.

2. Where a federal question and federal statute are involved it is not necessary to show diversity of citizenship by complainants.

Dated: Los Angeles, California, January 18, 1944.

Respectfully submitted,

C. A. Stice,

C. A. STICE,

Solicitor for Complainants.

Memorandum Of Points And Authorities Filed Herewith, Made a Part Hereof.

[Endorsed]: Filed Feb. 14, 1944.

[Title of District Court and Cause.]

MOTION TO STRIKE AFFIDAVIT OF MARY
GALTON FROM FILES OF THIS ACTION
AND RECORD.

Complainants file this motion to strike the affidavit of defendant Mary Galton from the record and files of this action, on submission to the court with other pleadings filed herewith on submission as to jurisdiction, and objection to motion to dismiss by defendants, this motion is submitted upon the ground, that the innocence or guilt of complainant Gladstone is not a matter before the court, as the only questions before the court, is jurisdiction and the alleged unconstitutional ordinance, Sec's. of the Municipal Code of Los Angeles, the said affidavit is immaterial and unnecessary and has no bearing on the matters involved, as paper is scarce account of war and if an appeal is taken it uses paper in a wasteful and expensive manner, in printing etc.

Wherefore, complainants pray said affidavit be stricken from the record.

Respectfully submitted,

C. A. Stice,

C. A. STICE,

Solicitor for Complainants.

All Papers Filed In This Action In Support Of This Motion And Made a Part Hereof.

[Endorsed]: Filed Feb. 14, 1944.

At a stated term, to-wit, The February Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Friday the 25th day of February in the year of our Lord one thousand nine hundred and forty-four.

Present:

The Honorable: Ben Harrison, District Judge.

No. 3409-BH Civil:

WM. L. GLADSTONE, et al., etc.,

Plaintiffs,

vs.

MARY GALTON and RAY L. CHESEBRO, etc.,

Defendants.

The motion to dismiss heretofore submitted on briefs is granted on the grounds that the complaint does not state facts sufficient to constitute a cause of action. The Court considers the ordinance valid and a proper exercise of the police powers. It is ordered that Order to Show Cause on the calendar of February 28, 1944, be stricken therefrom.

In the United States District Court Southern District
of California Central Division.

WM. L. GLADSTONE and H. H. HARRISON, Trus-
tees for Psychic Spiritual Science Church, a trust estate,
Plaintiffs,

vs.

MARY GALTON and RAY L. CHESEBRO, City At-
torney for the City of Los Angeles, State of California,
Defendants.

No. 3409-BH-Civil

JUDGMENT OF DISMISSAL.

On January 28, 1944, this cause came before the court on stipulation, and C. A. Stice, Esq., appeared for the Plaintiffs and Ray L. Chesebro, City Attorney, by John L. Bland, Esq., Deputy City Attorney of the City of Los Angeles, California, appeared for the defendants and on motion and by consent of said counsel, the court ordered the Motion of defendants to Dismiss submitted upon the filing of briefs; and the hearing on the Order to Show Cause upon the Complaint was continued to February 28, 1944 at 10 A.M.; and the briefs of both counsel having been filed herein, and the court having duly considered the pleadings, said Motion to Dismiss, and the law applicable, and on this 25th day of February, 1944, a minute order was entered granting said Motion to Dismiss on the

grounds that the Complaint does not state facts sufficient to constitute a cause of action, and ordered the said Order to Show Cause stricken from the calendar for hearing;

It Is, Therefore, Ordered, Adjudged and Decreed that this cause be, and it is hereby dismissed.

Dated: Los Angeles, California, February 28, 1944.

BEN HARRISON,
U. S. District Judge.

Judgment entered Feb. 28, 1944. Docketed Feb. 28, 1944. Book C. O. #23, Page 732. Edmund L. Smith, Clerk; by Murray E. Wire, Deputy.

[Endorsed]: Filed Feb. 28, 1944.

[Title of District Court and Cause.]

NOTICE OF APPEAL TO UNITED STATES CIR-
CUIT COURT OF APPEALS, NINTH CIRCUIT.

Notice is hereby given: That the complainants, Wm. L. Gladstone and H. H. Harrison, Trustees for Psychic Spiritual Science Church, do hereby give Notice that they appeal from the judgment rendered by the District Court of the United States, Southern District of California, Central Division, to the United States Circuit Court of Appeals, Ninth Circuit, Los Angeles, California, and this appeal is taken from the judgment of dismissal and the whole thereof, which said judgment was entered in the above entitled cause and action on the 28th day of February, 1944.

Dated: Los Angeles, California, March 10, 1944.

C. A. Stice,
C. A. STICE,
Solicitor for Complainants.

Mailed copy to Ray L. Chesebro, Donald M. Redwine,
John L. Bland, Wixon Stevens, Defts' Attys.

[Endorsed]: Filed Mar. 28, 1944.

[Title of District Court and Cause.]

COST BOND ON APPEAL.

Know All Men By These Presents:

Whereas on the 25th day of February, 1944, the above entitled Court made an order dismissing the bill of complaint in equity as filed by complainants, and such order and judgment was entered as a judgment of dismissal on the 28th day of February, 1944, in favor of the defendants and each of them in the above entitled cause and action and against the complainants, in above action.

And the complainants having appealed the said judgment to the Circuit Court of Appeals, of the United States, Ninth Circuit, from said judgment.

Therefore, the complainants hereof, file a bond in the sum of Two Hundred Fifty (\$250.00) Dollars, for the payment of any and all costs for which judgment may be rendered by the Court on this Appeal to the Circuit Court of Appeals of the United States, Ninth Circuit.

Now, Therefore, in consideration of the premises and aforesaid judgment for costs of any kind being rendered by the aforesaid Circuit Court of Appeals of the United States, Ninth Circuit, we, the undersigned, residents of the County of Los Angeles, State of California, do hereby jointly and severally undertake, guarantee and promise on the part of the complainants, Wm. L. Gladstone and H. H. Harrison, Trustees for the Psychic Spiritual Science Church, a trust estate, will pay any and all judgments for costs which may be awarded against the said complainants in the above entitled cause and action on appeal to the Circuit Court of Appeals of the United States, Ninth Circuit, not exceeding Two Hundred Fifty (\$250.00) Dollars,

to which said amount we acknowledge ourselves jointly and severally bound.

Viola Piedlow, Surety,
Mrs. Ruth E. Ernst, Surety.

United States of America
State of California

County of Los Angeles—ss.

Viola Piedlow and Mrs. Ruth E. Ernst, whose names are subscribed as sureties to above bond, being duly sworn, each individually deposes and says: That each individual subscriber to the above bond, is a freeholder in said district and is worth the sum of Two Hundred Fifty (\$250.00) Dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

Viola Piedlow, Surety.
Mrs. Ruth E. Ernst, Surety.

Address of Surety:

Viola Piedlow, 5037 So. Normandie, L. A.

Address of Surety:

Mrs. Ruth E. Ernst, 454 W. 41st Pl., L. A. 37.

Subscribed and sworn to before me this 17 day of March, 1944.

Orissa D. Poole,
Notary Public, in and for the County of Los
Angeles, State of California.

(Notarial Seal)

My Commission expires Mar. 15, 1945.

I Hereby Certify, that I believe the foregoing named sureties to the foregoing bond to be qualified to act as sureties on the said bond.

C. A. Stice,
C. A. STICE,
Solicitor for Complainants.

The foregoing bond is hereby Approved:

-----,
Judge of the Above Entitled District Court.

[Endorsed]: Filed Mar. 28, 1944.

[Title of District Court and Cause.]

STATEMENT OF POINTS.

Statement of Points.

Wm. L. Gladstone and H. H. Harrison, Trustees for Psychic Spiritual Science Church, a trust estate, Appellants in the entitled cause and action, herewith present points as follows:

Point 1.

That the Federal Court has jurisdiction of the above entitled cause and action in the District Court of the United States, on the ground a copyright is involved in said cause and action as set forth in the bill of complaint in equity, as under a federal statute and the Copyright Act, the said District Court of the United States have original and exclusive jurisdiction over matters wherein the Copyright Act is involved, such as is set forth in the bill of complaint of the above entitled cause and action, as the destruction of the aforesaid Psychic Spiritual Science

Church in the manner and method as averred in the bill of complaint in equity, also destroys the aforesaid copyrighted book and works which are used by the members and ministers of said Church, at the same time when the attack is made on the said Church for the purpose of destruction, as set forth in the bill of complaint in equity, and the District Court below rendered no ruling on the rights of complainants under the Copyright Act of the United States and likewise no ruling by said District Court relative to federal statutes regulating the matters of copyrights, other than a judgment of dismissal, as in the minute order of the District Court below, there is no mention of claims of complainants relative to the Copyright Act under which complainants have copyrights which complainants aver in their bill of complaint in equity, have been interfered with by the defendants by making arrests as set forth in bill of complaint, and the court ruled that the complaint does not state facts sufficient to constitute a cause of action, which *complainants* contend is a denial of due process of law by the District Court below, in denying complainants copyright rights.

Point 2.

The District Court below in making and entering judgment of dismissal in favor of defendants and against complainants, the said judgment was a denial of equal protection of the laws as provided under the provisions of the Constitution of the United States, particularly so under the provisions of the Fourteenth (14th) amendment to the said Constitution, which is clearly set forth in the bill of complaint in equity wherein it shows that complainants are penalized under the provisions of Section 43.30 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, which said Section

43.30—Fortune Telling, classifies many things and subject matters as fortune telling, and immediately following said Section 43.30 of said Municipal Code, of the said City of Los Angeles, is Section 43.31—Fortune Telling—Exemptions, of the said Chapter 4, Article 3, of the said Municipal Code of the said City of Los Angeles, State of California, which said Exemptions are provided in said section 43.31 as follows: “The provisions of the *proceeding* section (meaning said section 43.30) shall not be construed to include prohibit or interfere with the exercise of any religious or spiritual functions of any priest, minister, rector or an accredited representative of any bonafide church or religion where such priest, minister, rector or accredited representative holds a certificate of credit commission or ordination under the ecclesiastical laws of a religious corporation incorporated under the laws of any state or territory of the United States of America or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system, or faith with which they are affiliated. Provided, however, that any church or religious organization which is organized for the primary purpose of conferring certificate of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a religious doctrine or belief, shall not be deemed to be a bonafide church or religious organization.” In the analysis of the foregoing said sections 43.30 and 43.31, the discrimination of legislation is most outstanding the granting and sustaining of special and exclusive privileges is specifically set forth wherein certain organizations and corporations including the synod of the system are exempt and may carry on the things

which in the said sections are denied to complainants, and complainants have been seriously penalized for functioning under their organization and doing the very things which the said organizations, corporations and synod of the system do in the functioning of their various organizations and the said sections exempt them from prosecution and penalties, and the very same law the said sections do not exempt complainants and appellants, instead of exemption the complainants are prosecuted, persecuted and penalized under the very same law, the said sections, which complainants contend is a denial of equal protection of the laws, therefore, the District Court below in making and entering a judgment of dismissal against complainants and in favor of defendants, denied equal protection of the laws to complainants.

Point 3.

The District Court below made and entered a judgment of dismissal on the grounds that the complaint in equity did not state facts sufficient to constitute a cause of action, and the complaint in equity states facts that three different arrests have been made and penalties imposed under the provisions of the aforesaid sections 43.30 and 43.31 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, which said sections are averred in the bill of complaint in equity to be unconstitutional upon the basis of being discriminating and special privilege legislation which is clearly set forth in the bill of complaint in equity as set forth in the exemptions of the said sections, wherein a special privilege is granted to certain groups and denied to complainants, therefore, the District Court below in making and entering a judgment of dismissal in favor of defendants and against complainants, sustained the special privilege

granted in the said sections 43.30 and 43.31 and denied to the complainants hereof, their lawful and constitutional rights as are provided in the provisions of the Constitution of the United States of America.

Point 4.

The District Court below made and entered a judgment of dismissal upon the grounds, that the said court considered the ordinance, the said sections 43.30 and 43.31 of aforesaid Municipal Code of the City of Los Angeles, State of California, a proper valid ordinance and a proper exercise of the police powers, and complainants contend that the said ordinance and sections are unconstitutional and that the exercise of police power in making arrests under the provisions of said sections, such as complainants set forth the arrests in bill of complaint in equity, is also unconstitutional deprivation of liberty and lawful rights, and that the exercise of police power must be exercised as provided in the Constitution of the United States, as there is no provision in the said Constitution which authorizes police power to be exercised in violation thereof, therefore, the District Court below sustained the unconstitutional exercise of police power by the defendants against complainants in making and entering the said judgment of dismissal in favor of the defendants and against complainants and denied to complainants their rights of liberty as provided under the provisions of the Constitution of the United States of America.

Point 5.

The District Court below in making and entering a judgment of dismissal in favor of defendants and against complainants, denied complainants their contract rights,

which are set forth in bill of complaint in equity and exhibit A attached thereto, and also said judgment of dismissal impaired the obligations of the said contract marked exhibit A, which is prohibited under the provisions of the Constitution of the United States of America.

Point 6.

The District Court below in making and entering the judgment of dismissal denied the complainants their lawful and constitutional rights to function under the provisions of the Constitution of the United States which is clearly shown by the affidavit filed by defendant Mary Galton, wherein the said affidavit shows that money was paid to William L. Gladstone, Pastor and Trustee for the aforesaid Psychic Spiritual Science Church, for readings, and the foundation of said readings are based upon the Scriptures of the Holy Bible, and the said affidavit shows that particular effort was made to procure the said readings for the sole purpose of making arrests and prosecutions under the aforesaid sections 43.30 and 43.31 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, and the said arrests and prosecutions were carried out, executed and penalties imposed under the provision of said sections 43.30 and 43.31, and the readings procured as set forth in said affidavit, and there is no difference in the readings given by the complainants hereof than in many other religious denominations by whom readings are given, except in some instances in some of the denominations, readings, services and promises with advice given, that concerns the souls and spirits of persons who have passed in death from this earth, and the readings, services and promises, take the spirits and souls of the departed loved ones to heaven, and many other readings are given for the benefit of those on

earth and for those who have departed in death from the earth, all of which are paid for by the members and others in several denominations of religious philosophy, and the said sections 43.31 and 43.30 provide that certain groups who carry out those functions of readings, services and promises are exempt from prosecution and penalties, but under the provisions of the aforesaid arrests, convictions, and the said sections 43.30 and 43.31, complainants are not exempt, but instead of being exempt as the said sections provide for the certain groups who give readings, complainants are not exempt, and are prosecuted, persecuted and penalized for doing exactly the same things the said exempted groups are doing, and the Constitution of the United States of America makes no such special privilege provision, instead the Constitution of the United States prohibits such legislation and the sustaining of same, therefore, complainants have been discriminated against and deprived of their constitutional rights.

Wherefore, appellants respectfully present statement of points herewith and prays the Honorable Justices of the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the order and decree of judgment as made by the aforesaid District Court of the United States in and for the Southern District of California, Central Division.

Dated: Los Angeles, California, March. 20, 1944.

Respectfully submitted,

C. A. Stice,

C. A. Stice,

Solicitor for Appellants.

[Endcrsd]: Filed Apr. 14, 1944.

[Title of District Court and Cause.]

STIPULATION FOR ABBREVIATION OF TITLE
AND CAUSE.

It Is Hereby Stipulated, by counsel for all parties to the above entitled cause and action, that the title of court and cause and action may be abbreviated as to title and cause, except the front page and cover, on all pleadings and papers in above entitled cause and action on appeal.

Dated: Los Angeles, California, March 15, 1944.

C. A. Stice,

Solicitor for Complainants and Appellants.

John L. Bland,

Deputy City Atty.,

Solicitor for Defendant and Appellee, Mary Galton.

John L. Bland,

Deputy City Atty.,

Solicitor for Defendant and Appellee Ray L. Chesebro, City Attorney for City of Los Angeles, State of California.

[Endorsed]: Filed Apr. 14, 1944.

[Title of District Court and Cause.]

To The Clerk Of Above Entitled Court:

Sir:

Please issue the documents under and pursuant of the rule of the above entitled Court of the United States, for use on appeal of the above entitled cause and action to the United States Circuit Court of Appeals for the Ninth Circuit, which documents are as follows:

1. Bill of Complaint in Equity with exhibits A and B attached,
2. Notice of Motion to Dismiss, by defendant Mary Galton,
3. Motion to Dismiss, by defendant Mary Galton.
4. Notice of Motion to Dismiss, by defendant Ray L. Chesebro,
5. Motion to Dismiss, by defendant Ray L. Chesebro,
6. Objection to Motions to Dismiss, by complainants,
8. Motion to Strike Affidavit of defendant Mary Galton,
9. Minute Order of District Court, dated February 25, 1944, granting Motions to Dismiss,
10. Judgment of Dismissal by the District Court, entered February 28, 1944,
11. Notice of Appeal,
12. Statement of Points,
13. Designation of Documents and Proceedings Upon Which Appellants Rely Upon Appeal,
14. Names and Addresses of Attorneys.

Together with any additional portions of the record which may be designated and filed by the appellees hereof, pursuant and under the rules of the above entitled United States Court. The transcript will be put in printed form for final certification.

C. A. Stice,
C. A. STICE,
Solicitor for Complainants.

It is hereby stipulated that the foregoing designated record constitutes a complete record for transcript for both parties on the above appeal.

Dated: Los Angeles, California, March 21, 1944.

C. A. Stice,
C. A. STICE,
Solicitor for Complainants.

John L. Bland, D. C. A.,
Solicitor for defendant, Mary Galton,

John L. Bland, D. C. A.,
Solicitor for defendant, Ray L. Chesebro, City Attorney for the City of Los Angeles, State of California.

[Endorsed]: Filed Apr. 14, 1944.

[Title of District Court and Cause.]

DEFENDANTS' DESIGNATION OF ADDITIONAL
MATTER TO BE INCLUDED IN RECORD ON
APPEAL.

To the Clerk of the above named Court:

Under the provisions of Rule 73 of Rules of Civil Procedure and in accordance with the provisions of stipulation heretofore filed, defendants Mary Galton and Ray L. Chesebro hereby designate the following portion of the record in the above named court as documents to be included in and to become a part of the record on appeal in the above entitled action:

- (1) Affidavit of Mary Galton in Opposition to Issuance of Preliminary Injunction;
- (2) Answer of defendants Mary Galton and Ray L. Chesebro, filed in the above entitled action.

Respectfully submitted,

RAY L. CHESEBRO,
City Attorney,

DONALD M. REDWINE,
Assistant City Attorney,

WIXON STEVENS,
Deputy City Attorney,

JOHN L. BLAND,
JOHN L. BLAND,
Deputy City Attorney,

Attorneys for Defendant Mary Galton.

DONALD M. REDWINE,
Assistant City Attorney,

WIXON STEVENS,
Deputy City Attorney,

JOHN L. BLAND,

JOHN L. BLAND,
Deputy City Attorney,

Attorneys for Defendant Ray L. Chesebro.

Received copy of the within Designation this 18 day
of April, 1944.

C. A. Stice, by C. E. B.,
Attorney for Complainants.

[Endorsed]: Filed Apr. 18, 1944.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK.

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 55, inclusive, contain full, true and correct copies of: Bill of Complaint; Notice of Motion to Dismiss Complaint for Injunction and for Injuries caused by Destruction of Copyright; Affidavit of Mary Galton in Opposition to Issuance of Preliminary Injunction; Answer to Complaint; Objection to Motion to Dismiss as Made by Defendants, Upon Grounds the above-entitled Court has Jurisdiction; Motion to Strike Affidavit of Mary Gal-

ton from Files of this Action and Record; Minute Order Entered February 25, 1944; Judgment of Dismissal; Notice of Appeal; Cost Bond on Appeal; Statement of Points; Stipulation for Abbreviation of Title and Cause; Designation of Record on Appeal and Defendants' Designation of Additional Matter to be Included in Record on Appeal which constitute the record on appeal to the Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$18.85 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 25 day of April, 1944.

(Seal)

EDMUND L. SMITH, Clerk,
By Theodore Hocke, Deputy Clerk.

[Endorsed]: No. 10757. United States Circuit Court of Appeals for the Ninth Circuit. Wm. L. Gladstone and H. H. Harrison, Trustees for Psychic Spiritual Science Church, a trust estate, Appellants, vs. Mary Galton and Ray L. Chesebro, City Attorney for the City of Los Angeles, State of California, Appellees. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed April 28, 1944.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for
the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit.

Civil Action

No. 10757.

WM. L. GLADSTONE and H. H. HARRISON, Trus-
tees for Psychic Spiritual Science Church, a trust
estate,

Appellants,

vs.

MARY GALTON and RAY L. CHESEBRO, City At-
torney for the City of Los Angeles, State of Cali-
fornia,

Appellees.

DESIGNATION OF DOCUMENTS AND PRO-
CEEDINGS UPON WHICH APPELLANTS
RELY UPON APPEAL.

To the Honorable Justice, Curtis D. Wilbur, and As-
sociate Justices of the United States Circuit Court of
Appeals for the Ninth Circuit:

Appellants respectfully herewith designates documents
and proceedings which appellant relies upon *an* appeal be-
fore the above entitled Appellate Court, which are as fol-
lows, to wit:

1. Bill of Complaint in Equity with exhibits A and B
attached thereto.

2. Notice of Motion to Dismiss, by defendant Mary
Galton.

3. Motion to Dismiss, by defendant, Mary Galton.

4. Notice of Motion to Dismiss, by defendant Ray L.
Chesebro.

5. Motion to Dismiss, by defendant Ray L. Chesebro.
6. Affidavit by defendant Mary Galton.
7. Objection to Motions to Dismiss, filed by complainants.
8. Motion to Strike Affidavit of defendant Mary Galton, filed by complainants.
9. Minute Order of District Court, dated February 25, 1944, granting Motions to Dismiss.
10. Judgment of the District Court, Judgment of Dismissal, entered February 28, 1944.
11. Notice of Appeal.
12. Statement of Points.
13. Designation of Documents and Proceedings Upon Which Appellants Relies Upon Appeal.
14. Names and Addresses of Attorneys.

Wherefore, appellants respectfully present the said documents and proceedings before the United States Circuit Court of Appeals for the Ninth Circuit as designated hereof upon which appellants rely upon the appeal hereof.

Respectfully Submitted,

C. A. Stice,

C. A. STICE,

Solicitor for Appellants.

Recd. Copy this 28th day of April, 1944. Ray L. Chesebro, City Atty., by Paul Palmer, Deputy, Attys. for Appellees.

[Endorsed]: Filed May 1, 1944. Paul P. O'Brien, Clerk.